



A RELATIVE STUDY ON AFFIRMATIVE ACTION IN INDIA AND UNITED STATES

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ABSTRACT

Democracies all over the world have always responded to the inequalities in the society by enacting legislations and incorporating equality clauses in their Constitutions. Countries like India, United States of America and post-apartheid South Africa, among others have responded to such inequalities in a major way. At the outset, it must be mentioned that the enactment of such legislations, and even amendments to respective Constitutions were not an easy task for the proponents of equality. Each of these Countries has therefore, had a tumultuous history in the conceptualizing, developing, and finally legislating basic tenets of equality into the broader structures of their respective Constitutions.

The issue of reservation has remained a cause of disagreement between the reserved and the non-reserved sections of the society. While the unreserved segments keep on opposing the provision, the neediest sections from within the reserved segments are hardly aware about how to get benefited from the provision or even whether there are such provisions. Reservation is no doubt good, as far as it is a method of appropriate positive discrimination for the benefit of the downtrodden and economically backward Sections of the society but when it tends to harm the society and ensures privileges for some at the cost of others for narrow political ends, as it is in the present form, it should be done away with, as soon as possible.

With this background, the present study deals with the issues of philosophical foundations of reservations in the world, particularly US and India. Specifically, it would focus on how the reservation policy is being implemented in US and India. Are these reservation policies or affirmative actions democratic? If yes, to what extent? How the reservation policies are contributing for building an egalitarian society and helping divergent interests to emerge in the national arena that makes democracy vibrant? These are some of the related issues discussed in the study.

KEYWORDS: Indian Banking System, Evolution, Regulatory Framework, Financial Inclusion, Digitalization, Reserve Bank of India

INTRODUCTION

Meaning of Affirmative Action

Affirmative action refers to programs and practices aimed at promoting equal openings for historically underprivileged groups, particularly in areas similar as education, employment, and political representation. It involves taking visionary way to address past demarcation and promote diversity and addition. Affirmative action can involve measures similar as preferential treatment, proportions, or targeted outreach programs to insure representation and equal access to openings for underrepresented groups.

Meaning of Reservation System

A "reservation system" in the government sector refers to a policy where a specific percentage of jobs and educational seats are set aside for historically disadvantaged groups like Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backward Classes (OBC), aiming to promote equal occasion and representation in government employment and institutions by furnishing a specific chance of jobs and educational seats are set away for historically underprivileged groups like slated gentries (SC), slated lines (ST preferential access to

these communities grounded on their social and profitable backwardness; basically, it's a form of affirmative action designed to hoist marginalized sections of society.

India

The share grounded affirmative action programme in India, called the 'reservation system', has two factors it's targeted independently towards SC, ST and OBC groups. It's stylish to examine them independently. 22.5 percent of all government jobs, seats in educational institutions that have complete or partial government backing and electoral constituencies at all situations of government are reserved for SC and ST persons. This share is roughly commensurable to their share in the population. While this was elevated in the Indian Constitution, espoused in 1950, via Article 15 (4) (reserve places for the under privileged in state run educational institutions) and Article 16 (4) (reservation of government jobs), this program has a history that precedes independence. In some areas, the British introduced proportions nearly a hundred years ago

Dr. B.R. Ambedkar, an outstanding theoretician and one of the most important leaders of the India drafted the constitution of

independent India. Making affirmative action for SCs and STs a part of the constitution, a move largely due to Ambedkar, assured that it's obligatory and cannot be questioned in proposition. still, in practice, due to the upper estate ascendance in all these institutions, its perpetration is indifferent and not free from legal battles and proportions frequently remain partly fulfilled.

OBC Reservations

There has been considerable debate, again going back to the British times, over whether reservations should be extended to the OBCs that have not suffered the smirch of untouchability. In a number of princely states, educational benefits were given to the OBCs and in some major princely states, similar as Madras, Bombay and Mysore, preferential treatment was given to OBCs that included reservations and weal schemes.

Unlike in the case of Dalits, where identification of jatis is easier and non-controversial, the assignment of the OBC status to jatis is an exercise fraught with considerable difficulty. It's true that there are several jatis that are veritably low in the ladder styled graded unequal caste system of India and thus face serious material privation. still, since the jati- varna link is fluid, it is not clear that each of the jati that tries to get the OBC status is, in fact, a assignee of the Sudra varna, or indeed, is presently facing serious privation, as several land retaining, else prosperous jatis claim OBC status. still, as Guhan(2001) argues, the position of OBCs reflects " graded inequality rather than a sharp distinction between SCs and STs within Hindus ". He also points out that OBC status has meaning in original surrounds. For the state lists of OBCs, the Central Government reckoned upon documents drawn up in 1949- 1950. In 1965, commissions were appointed in a number of states to identify the OBCs. Still, since no legal data has been collected since 1931, these commissions had to calculate on extrapolations and sample checks to estimate the figures and the social and educational backwardness of the OBCs. As Guhan points out, the problem is that preferential schemes cannot be accepted unless they're grounded on dependable data and dependable data cannot be collected for fear of aggravating estate passions. Government agencies do not collect data on jatis using the argument that the collection of data will promote divisive tendencies. Still, other social orders, similar as religion and language can be considered (and indeed are) divisive, but the government has not stopped collecting data on these easily also, the issue of proportions for OBCs has been on the docket for decades. As a part of the same hunt, in 1981, yet another report, called the Mandal Commission Report (MCR) was tabled. The advertisement of its perpetration was made in 1991 by then Prime Minister, V.P.Singh. Under the recommendation of the MCR, reservations would be extended to include the OBCs with a share of 27 percent, taking the aggregate (SC/ ST/ OBC) to 49 percent. The advertisement caused a huge public kick and wide violent and malign pupil agitations across university premises in the country. Interestingly, despite the dislocations caused by the agitations, public sympathy was completely with the striking scholars. Also, while the agitation was caused by the advertisement of the MCR and the extension of reservations to OBCs, the kick was against affirmative action in general,

with openly depreciatory casteist taglines directed against the Dalit gentries. V.P. Singh was extensively demonized as having created the OBC monster. As Supreme Court of India pronounced the judgment in favor of Reservations to OBCs in Central Educational Institutions, result of the judgment, Government of India legislated and reserved 27 for OBCs.

USA

The Civil Rights Act of 1964 introduced the principle of 'affirmative action' into the political, judicial and executive spheres of American society. The institutions set up under the 1964 Act, together with other Supreme Court rulings, were to define the American affirmative action program, which is not share grounded. The Civil Rights Act was followed by a series of superintendent orders, issued by the Lyndon B. Johnson administration, to promote equivalency in employment and education. The legal authority for affirmative action in its original form was bedded in Titles VI and VII of the Civil Rights Act of 1964. These two titles ban demarcation (whether negative or positive) on grounds of race, color, religion, or sex, in federally supported conditioning and in employment, independently.

The program encompasses a large number of conditioning that are designed to ameliorate the presence of youth and women in the pool and thereby raise their standard of living. Therefore, an obligation to seek selection criteria that did not disproportionately screen out youth and women was assessed on the employer. Starting with the addition of the marker "equal occasion employer", measures to insure that selection procedures incorporated compensatory correction to insure acceptable representation of youth came to comprise the affirmative action program. Similar compensation was held to be necessary indeed if the employer had no record of former demarcation as long as there were disadvantages caused by inter-ethnic inequalities in society.

Under Administrative Order 11246, issued in 1965, civil contractors who fail to take affirmative action to end demarcation threat being barred from competition for unborn contracts. Generally, employers develop affirmative action programs in response to the conditioning of either the Office of Federal Contract Compliance Programs (OFCCP) that was also created as a result of the administrative order or of the Equal Employment Opportunity Commission (EEOC).

Comparison and Differences of affirmative action in India and the United States

S.No	Dimension	Reservation System in India	Affirmative Action in USA
1	Goal	To address historical social and economic inequalities based on Caste	To address historical discrimination based on Race
2	Selected Groups	Scheduled Castes (SC), Scheduled Tribes (ST), Other Backward Classes (OBC)	African Americans, Hispanics, Native Americans,

3	Affirmative Action	Reservation or Affirmative Action Quota policies provide reserved seats in education, employment, and politics	Quota systems are not used. but, diversity and inclusive policies are encouraged in the admission practices that seek to increase the representation of Black, Hispanic and other minority students in colleges and universities
4	Origin	Jyotirao Phule in 1882 originally conceived the idea of a caste-based reservation system. Fundamental right under Articles 15(4) and 16(4) of the Independent India constitution.	Civil Rights Act of 1964 which ban discrimination on various grounds.
5	Quota Percentage	Fixed at 50% (Indra Sawhney judgement) for OBC, SC & ST in both employment and education	No fixed percentage. It depends on the institution or program and varies for different states of the USA
6	Eligibility	Caste-based identity; Social, Education and Economic (Extra 10% EWS quota) backwardness	Race, ethnicity, and historical disadvantage
7	Period	Originally gave a thought as a temporary measure in the Indian constitution, but extended to achieve social justice	Continues to evolve based on societal changes and legal interpretations
8	Issues	The debate over extending reservations to other communities and concerns about reverse discrimination. e.g., 2006 Anti-Reservation Protests; Patel and Jats demanding reservation	Controversies around misuse of affirmative policies.

Strengths and Weaknesses of the Affirmative Action Program in India and the USA

To add up, in India, reservation programs have a much longer history than the US, are naturally guaranteed (for SCs and STs), and take the form of proportions in government jobs, educational institutions, and electoral seats at each position of

government. In the US, the affirmative program is around 60 years old, not naturally guaranteed, and proportions are ruled out. The strength of the Indian reservation program is that being naturally elevated, it cannot be challenged fairly and is virtually unrecoverable. Also, its connection to government seats has assured SC ST representation in the political sphere much more explosively than in the US. Several important political leaders, chief ministers of states, ministers in the Central government press (and indeed, the former President of India, Mr. K. R. Narayanan) are Dalit. Still, the perpetration of the program in government jobs and educational institutions is mechanical and insincere. Utmost institutions get down by simply stipulating the obligatory share; given the lack of a monitoring agency, there's neither the responsibility to fill the share nor penalties for loopholes used to circumvent share restrictions. Follow-up support programs to enhance the performance of share entrants are missing. Therefore, calling the needful number of seats is frequently the morning and end of the perpetration of the Indian reservation system. Further, with liberalization of the frugality, proportions in government institutions are getting decreasingly spare because of the drive towards privatization. Therefore, there's now a strong demand for reservations in the private sector that's predictably being opposed by the commercial world.

The US affirmative action program is important youngish than its Indian counterpart and relies a great deal on voluntary sweats. While in principle, the quasi-voluntary element could lead to innovative measures to further strengthen affirmative action, in reality, the result could be exactly contrary. Plus, action can be, and has been, used to effectively adulterate affirmative action. Still, the presence of an enforcement medium is an important strength of the US affirmative action program. Also, while the black middle class has grown mainly as a result of Affirmative Action in education and jobs, black representation in government bodies, is insignificant.

Despite differences in form and structure, the opposition to affirmative action is veritably analogous in the two countries. The major standard expostulations are (as away in the world) merit/effectiveness is lowered as a result of lower good (Affirmative Action) campaigners; preferences adulterate impulses for tone - enhancement among the target groups; benefits of affirmative action do not reach the 'real' heirs, but are possessed by the more-off sections of the target groups.

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